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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. Serial No. - 09/768,016
Filing Date - January 23, 2001
Inventor - Stanley B. Miller III et al
Group Art Unit - 1615
Examiner name - Susan T. Tran
Atty Docket - 500

*15/Letter re
Interview*

RESPONSE

MAIL STOP AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

*Ret
6-24-03*

Sir:

This is in response to the Examiner's Interview Summary dated May 29, 2003.

At the outset, the Examiner indicated that after discussing the case with Dr. Kishore Gollamudi, the 35 USC 102 rejection had been withdrawn.

The Examiner again indicated that a declaration should be filed for overcoming the 35 USC 103 rejection and that the application would be allowed. The Examiner further indicated that the comparison with the prior art on pages 10 and 11 of the specification was inadequate as a declaration because it compared applicants' subject matter having two basic salts with the prior art which utilized only one basic salt.

Further, the Examiner indicated that the Tuma patent 6,146,446 in column 5, lines 10-13, disclosed two basic salts and that a declaration should be provided showing superiority over the foregoing portion of the Tuma patent.

After reviewing column 5, lines 3-18, of the Tuma patent, the undersigned attorney told the Examiner that, in his opinion, the foregoing portion of the Tuma patent did not render claim 3 obvious. In this respect, the undersigned attorney indicated that claim 3 calls for four elements, namely, an adsorbent, a first basic salt primarily associated with the adsorbent, a binder, and a second basic salt primarily associated with the binder. The undersigned attorney further indicated that the foregoing paragraph in the Tuma patent merely stated that mixtures of adsorbent materials may be associated with the binder and that the four components recited in the claims are not obvious from the teaching in column 5, lines 3-18. The Examiner countered that any of the adsorbent materials recited in lines 10-13 of column 5 can be combined together with the binder and thus would provide subject matter which justified a 35 USC 103 rejection of obviousness.

Thereafter, the Examiner advised the undersigned attorney that he had the option of filing his appeal brief by June 2, 2003 or filing an RCE or filing a declaration. The undersigned attorney stated that filing a declaration showing superiority would require comparative tests and this could not be done by June 2, 2003, the due date of the appeal brief.

The undersigned attorney further stated that column 5, lines 18, of the Tuma patent did not have the subject matter of claim 28 and that he would be willing to accept claim 28 and he would file a continuation application for the

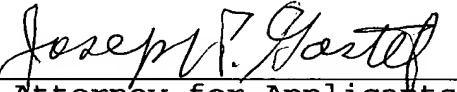
remainder of the claims. The Examiner specifically said she would not consider it and repeated her position that a declaration or an appeal brief should be filed, and she terminated the interview.

Respectfully submitted,

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May 30, 2003

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